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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 WILLIAM MCKINNEY,

8 Plaintiff,

9 v.

10 ROMEO ARANAS, *et al.*,

11 Defendants.

Case No. 2:12-CV-401-KJD-GWF

**ORDER**

12 Before the Court is Plaintiff William McKinney's Motion to Strike Reply to Response  
13 (#55). Also before the Court is Defendants Romeo Arana *et al.*'s Motion to Strike Motion to  
14 Strike Reply to Response (#56). To be clear, Defendants' Motion to Strike seeks to strike  
15 Plaintiff's Motion to Strike.

16 Additionally, Defendants have correctly acknowledged that their Motion to Strike  
17 Response (#49) is moot (#56). Accordingly, the Court **DENIES** the Motion to Strike Response  
18 (#49) as moot.

19 I. The Pro Se Standard

20 The Court notes that Defendant is pro se, meaning that his submissions to the Court are  
21 "to be liberally construed, and . . . however inartfully pleaded, must be held to less stringent  
22 standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007)  
23 (citations and internal quotation omitted). Accordingly, the Court will liberally construe  
24 Plaintiff's motion. "[H]owever, a *pro se* litigant is not excused from knowing the most basic  
25 pleading requirements." Am. Ass'n of Naturopathic Physicians v. Hayhurst, 227 F.3d 1104, 1107  
26 (9th Cir. 2000). Further, he "must meet some minimum threshold in providing a defendant with

1 notice of what it is that it allegedly did wrong.” Brazil v. U.S. Dep’t of Navy, 66 F.3d 193, 199  
2 (9th Cir. 1995).

3 I. Analysis

4 Plaintiff seeks to strike Defendants’ Reply to Response (#54) regarding Defendants’  
5 Motion to Dismiss (#32) for the following reasons, addressed in turn.

6 First, because the original Motion to Dismiss (#32) did not include a statement of  
7 material facts not in dispute, and Defendants are therefore seeking to “cover up” the failure to  
8 file a proper motion. Having glanced at the original Motion to Dismiss (#32), the statement of  
9 Material Facts Not Genuinely In Issue begins on page three (3). Accordingly, Plaintiff’s  
10 argument on this ground is simply false.

11 Second, because “Plaintiff is confused” and asserts that “Defendants appear to be  
12 replying to their own Motion(s).” The Court agrees that Plaintiff is confused, as all motions  
13 properly consist of a motion, a response by the opposing party, and then a reply by the party that  
14 filed the original motion. No relief is warranted on this ground. Additionally, Plaintiff explains  
15 that he is concerned about having sufficient time to oppose the reply. Such an opposition would  
16 be procedurally improper and stricken by the Court.

17 Third, Plaintiff alleges that the reply should be stricken as it contains “insufficient  
18 defenses, redundant matter, immaterial matter, impertinent matter, and scandalous matter.” No  
19 further facts are asserted, nor is any law cited. Such wholly conclusory assertions utterly fail to  
20 provide a basis for Plaintiff’s motion to strike. No relief is warranted on this ground.

21 Defendants assert that Plaintiff’s Motion amounts to an impermissible surreply, seeking  
22 to bolster the response already filed by Plaintiff. The Court will not consider allegations in the  
23 Motion to Strike when deciding the remaining pending motions in this case.

24 III. Conclusion

25 For the above reasons:

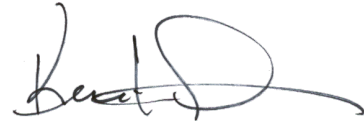
26 Defendants’ Motion to Strike (#49) is **HEREBY DENIED** as moot;

1 Plaintiff's Motion to Strike (#55) is **HEREBY DENIED** as lacking merit;

2 Defendants' Motion to Strike (#56) is **HEREBY DENIED** as moot, given that the  
3 Motion to be stricken has been Denied.

4 Lastly, the Court reminds the parties that in pursuit of justice, the Court has been both  
5 generous and patient. However, misleading the Court or seeking to manipulate these proceedings  
6 in any way are grounds for severe sanctions. The parties are strongly encouraged to be candid,  
7 forthright, and timely in all future matters.

8 DATED this 6th day of May 2014.

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12 Kent J. Dawson  
13 United States District Judge  
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